

**292.500 Administration of chapter.**

- (1) The administration of the provisions of this chapter shall be under the Office of Financial Institutions.
- (2) It is unlawful for the executive director or any of his officers or employees to use for personal benefit any information which is filed with or obtained by the executive director and which is not made public. Except as provided in subsection (18) of this section, no provision of this chapter authorizes the executive director or any of his officers or employees to disclose any confidential information except among themselves or when necessary or appropriate in an administrative hearing or investigation under this chapter. No provision of this chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the executive director or any of his officers or employees.
- (3) The executive director may from time to time promulgate, amend, and repeal administrative regulations, forms, and orders as are necessary to carry out the provisions of this chapter, including administrative regulations and forms governing registration statements, applications, notice filings, and reports and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter. For the purpose of administrative regulations and forms, the executive director may classify securities, persons, and matters within his jurisdiction, and prescribe different requirements for different classes.
- (4) No administrative regulation, form, or order may be promulgated, amended, or repealed unless the executive director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provision of this chapter. In promulgating administrative regulations and forms, the executive director may cooperate with the securities administrators of the other states and the Securities and Exchange Commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statement, applications, notice filings, and reports whenever practicable.
- (5) The executive director may by administrative regulation or order prescribe the form and content of financial statements required under this chapter and the circumstances under which consolidated financial statements shall be certified by certified public accountants. All financial statements shall be prepared in accordance with generally-accepted accounting standards.
- (6) All administrative regulations and forms of the executive director shall be published.
- (7) No provision of this chapter imposing any liability applies to any act done or omitted in good faith in conformity with any administrative regulation, form, or order of the executive director, notwithstanding that the administrative regulation, form, or order may later be amended or repealed or be determined by judicial or other authority to be invalid for any reason.

- (8) A document is filed when it is received by the executive director or when the executive director receives confirmation that a document has been filed pursuant to KRS 292.327, 292.330, 292.360, and 292.370.
- (9) Every administrative hearing shall be conducted in accordance with KRS Chapter 13B and the provisions of this chapter, and shall be public unless the executive director in his discretion grants a request joined in by all the respondents that the hearing be conducted privately.
- (10) The executive director shall keep a register of all applications for registration and registration statements and notice filings which are or have ever been effective under this chapter and all denial, suspension, or revocation final orders which have ever been entered under this chapter. The register shall be open for public inspection.
- (11) The information contained in or filed with any registration statement, application, notice filings, or report may be made available to the public under administrative regulations as the executive director may promulgate.
- (12) Upon request and at reasonable charges as he prescribes, the executive director shall furnish to any person photostatic or other copies (certified under his seal of office if requested) of any entry in the register or any document which is a matter of public record. In any administrative hearing or prosecution under this chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.
- (13) The executive director in his discretion may honor requests from interested persons for interpretative opinions.
- (14) The executive director may assess civil fines against any person who violates any provision of this chapter or any rule or order under this chapter.
- (15) In addition to any fines levied under subsection (14) of this section, the executive director may also assess the costs of any investigation, including attorney's fees incurred as a result of bringing enforcement actions under the provisions of this chapter and costs of holding any hearing as a result of an enforcement action. Costs and attorney's fees may only be assessed if there has been a final determination that a violation has occurred, and in an amount reasonably related to the costs of investigation and enforcement for those violations only.
- (16) If fines or costs assessed under this section are not paid, the executive director may notify the Attorney General who shall promptly institute an action in the name of the Commonwealth of Kentucky, in the Franklin Circuit Court for the recovery of the fines or costs.
- (17) The remedies provided by this section are not exclusive and may be sought and employed in any combination to enforce the provisions of this chapter. The remedies set forth in this section shall not prohibit or restrict the executive director from participating in any way whatsoever with respect to any joint examination, investigation, enforcement action, settlement, or other legal or regulatory action with securities administrators of other jurisdictions, the Securities and Exchange Commission, any self-regulatory organization, or any national securities exchange or national securities association registered under the Securities Exchange Act of

1934. Accordingly, the executive director may, at any time and in his sole discretion, share or cause to be shared by any employee of the office any information gained pursuant to an examination, investigation, filing, or from any other source, with other governmental agencies, jurisdictions, or governmental or self-regulating organizations or entities, to the extent the executive director, in his sole discretion, deems that the sharing of information is or will be reasonably necessary or useful to the office or other agency in carrying out its regulatory responsibilities.

- (18) The following materials, documentation, and other information are deemed to have been confidentially disclosed to the office and to be confidential information under the Kentucky Open Records Act and, specifically, the provisions of KRS 61.878(1)(b), to the extent described in this subsection and except as provided further in administrative regulation:
- (a) Any materials, documentation, or other information provided to or otherwise obtained by the office during the course of a routine compliance examination of any broker-dealer, agent, investment adviser, or investment adviser representative; and
  - (b) Any materials, documentation, or other information provided to or otherwise obtained by the office from any other regulatory or governmental body, including but not limited to any other state securities regulator, the Securities and Exchange Commission, any self-regulatory organization, any state or federal criminal agency, and any criminal prosecutorial body, and which the other body expressly deems to be confidential.

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 20, sec. 22, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 224, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 165, sec. 21, effective July 15, 1994. -- Amended 1982 Ky. Acts ch. 346, sec. 11, effective July 15, 1982. -- Amended 1972 Ky. Acts ch. 265, sec. 15. -- Created 1960 Ky. Acts ch. 110, sec. 20, effective January 1, 1961.

**Legislative Research Commission Note (6/20/2005).** 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.